

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	CASE NO. 24-33450
LAND & SEA INDUSTRIES, LLC	§	
<i>Debtor</i>	§	
	§	CHAPTER 11

**SECURED CREDITOR STELLAR BANK'S
MOTION FOR RELEASE OF SALES PROCEEDS
FROM THE REGISTRY OF COURT**

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

There will be a hearing on this motion on October 30, 2024 at 11 a.m. in courtroom 403 at 515 Rusk, Houston, Texas 77002.

**TO THE HONORABLE JEFFREY P. NORMAN,
UNITED STATES BANKRUPTCY JUDGE:**

1. This Court has jurisdiction over the subject matter of this Motion under 28 U.S.C. § 1334(b). Venue is proper under 28 U.S.C. §§ 1409 & 1409.

2. Stellar Bank is a secured creditor of the debtor, evidenced by two loans.¹ Debtor was in default on its debt to Stellar Bank prior to Debtor filing bankruptcy.² Stellar Bank is secured by first lien purchase money security interests in certain equipment and other collateral, including the equipment identified as securing Stellar Bank on the list of equipment to be sold at the auction and the proceeds thereof. Stellar Bank's liens and security interests on the proceeds of the property sold at auction are also evidenced by the Loan Documents, Security Agreements, and UCC Filings, [*See*, Proof of Claim No. 20 and Doc. 46, Exhibit 1].

3. On August 13, 2024, the Court entered an Order Granting Debtor's Expedited Motion to Sell Personal Property at Auction Free and Clear of All Liens, Claims, and Encumbrances. [Doc. 46]. Notably, this Court ordered that "[a]ny liens on the property shall attach to the proceeds of the sale less allowed future carve outs." [Doc. 46, ¶ 8].

4. On August 14 and August 15, 2024, an auction was held pursuant to the Court's order [Doc. 46] authorizing same. Proceeds from the auction amounted to \$1,707,290.00. *See* Auction Results Spreadsheet, attached as **Exhibit "A"**. Subsequent to the auction, the proceeds from the auction were deposited into the registry of the Court.

¹ Debtor's debt to Stellar is described in Stellar Bank's Proof of Claim filed herein, Proof of Claim No. 20.

² Prior to the filing of this case, Stellar Bank agreed to allow its collateral to be included in Debtor's auction with Plant Machinery Inc., rather than repossess the collateral. Prior to conducting the auction, the Debtor filed for bankruptcy.

5. The proceeds from the sale of Stellar Bank's collateral totaled \$141,350.00. *See* Statement for Auction Sales for Stellar Bank Collateral, attached hereto as **Exhibit "B"**. The pro rata expenses allocated to Stellar Bank's share of the sale proceeds were \$6,987.53. *See* Land & Sea Expense Allocation Spreadsheet, attached hereto as **Exhibit "C"**.

6. Accordingly, Stellar Bank requests the Court enter an order authorizing the release of funds by the Clerk from the registry of the Court to Stellar Bank in the amount of \$134,362.47. Stellar Bank's share of the sale proceeds minus Stellar Bank's allocated pro rata expenses ($\$141,350.00 - \$6,987.53 = \$134,362.47$).

Dated: October 7, 2024

Respectfully submitted,

By: /s/ Ted L. Walker

Ted L. Walker

State Bar No. 20733100

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Attorney for Creditor Stellar Bank

CERTIFICATE OF CONFERENCE

Counsel for Stellar Bank conferred with Debtor's counsel regarding the relief sought in this motion. Debtor is unopposed to the relief sought. On October 4, 2024, counsel for Stellar Bank emailed the Attorney for U.S. Trustee and on October 7, 2024 emailed counsel for the Unsecured Creditor's Committee to confer regarding the relief sought in this motion. As of the date of filing hereof, neither the Attorney for U.S. Trustee or the attorney for the unsecured creditor's committee have responded.

/s/ Ted L. Walker
Ted L. Walker

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded on the 7th day of October, 2024 by ECF and/or facsimile and/or First Class Mail U.S. Mail, to:

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/s/ Ted L. Walker
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